

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>SHAUNTEZ HAIRSTON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL NO. 08-cv-303-GPM</b>
	)	
<b>THOMAS KNAPP, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

Shauntez Hairston, an inmate in the St. Clair County Jail, brings this action for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983. In his amended complaint (Doc. 8),<sup>1</sup> Hairston states that from February 2007 through March 2008, he was locked down in solitary segregation.<sup>2</sup> During his time in segregation, Hairston alleges that bright lights were left on continuously for over two weeks, he spent several weeks in 24-hour lock-down with no out-of-cell recreation, he had no cleaning supplies, he was denied hygiene items, he was denied access to personal property and mail, and he was not allowed sufficient access to the law library. Hairston states that Defendants Knapp and Steinhauer made most of the decisions regarding his confinement to segregation and the conditions of that confinement. He also states that he complained in writing

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<sup>1</sup> When he filed his motion for leave to amend his complaint (Doc. 6), the proposed amended complaint submitted with that motion bore the case number 08-362-GPM. After comparing the amended complaint to the original complaint and the complaint in the other case, it is clear that Hairston intended to file the amended complaint in this action.

<sup>2</sup> It seems that some of his time in segregation was due to disciplinary incidents, but it is not clear that he is attempting to challenge the validity of any of those disciplinary actions.

several times to all four individual defendants, including Justus and Weith. Hairston further alleges that although each of these individuals was fully aware of the situation, not one of them took action to correct it.

To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and he must show that the alleged deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). Generally, confinement of pretrial detainees may not be punitive, because “under the Due Process Clause, a detainee may not be punished prior to an adjudication of guilt.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Thus, conditions of pretrial confinement must be “reasonably related to a legitimate governmental objective.” *Id.* at 539. *See also Murphy v. Walker*, 51 F.3d 714, 717 (7<sup>th</sup> Cir. 1995); *Brownell v. Figel*, 950 F.2d 1285 (7<sup>th</sup> Cir. 1991). Furthermore,

[t]he doctrine of respondeat superior does not apply to § 1983 actions; thus to be held individually liable, a defendant must be “personally responsible for the deprivation of a constitutional right.” *Chavez*, 251 F.3d at 651 (quotation omitted); *see also Wolf-Lillie*, 699 F.2d at 869 (“Section 1983 creates a cause of action based upon personal liability and predicated upon fault.”). A defendant “will be deemed to have sufficient personal responsibility if he directed the conduct causing the constitutional violation, or if it occurred with his knowledge or consent.” *Chavez*, 251 F.3d at 652. This definition recognizes that the individual does not have to have participated directly in the deprivation. *See McPhaul v. Board of Comm'rs of Madison Co.*, 226 F.3d 558, 566 (7<sup>th</sup> Cir. 2000) (quotation omitted). Thus, a supervisor may be liable for “deliberate, reckless indifference” to the misconduct of subordinates. *See Chavez*, 251 F.3d at 651 (“The supervisors must know about the conduct and facilitate it, approve it, condone it, or turn a blind eye for fear of what they might see.”).

*Sanville v. McCaughtry*, 266 F.3d 724, 740 (7<sup>th</sup> Cir. 2001).

Applying these standards to the allegations in the amended complaint, Hairston’s complaint survives threshold review with regard to the four individual defendants. *See* 28 U.S.C. § 1915A.

In his original complaint (Doc. 1), Hairston also named the St. Clair County Sheriff's Department as a defendant in this action. He does not, however, name the Department as a defendant in the amended complaint. Furthermore, governmental entities cannot be held liable for the unconstitutional acts of their employees unless those acts were carried out pursuant to an official custom or policy. *Pourghoraishi v. Flying J, Inc.*, 449 F.3d 751, 765 (7<sup>th</sup> Cir. 2006). *See also Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978); *Estate of Sims ex rel. Sims v. County of Bureau*, 506 F.3d 509, 515 (7<sup>th</sup> Cir. 2007); *Lewis v. City of Chicago*, 496 F.3d 645, 656 (7<sup>th</sup> Cir. 2007).

**IT IS HEREBY ORDERED** that the **ST. CLAIR COUNTY SHERIFF'S DEPARTMENT** is **DISMISSED** from this action with prejudice.

**IT IS ORDERED** that Plaintiff shall complete and submit a USM-285 form for Defendant **STEINHAUER** within **THIRTY (30) DAYS** of the date of entry of this Memorandum and Order. The Clerk is **DIRECTED** to send Plaintiff **ONE (1)** USM-285 form with Plaintiff's copy of this Memorandum and Order. **Plaintiff is advised that service will not be made on a defendant until Plaintiff submits a properly completed USM-285 form for that defendant.**

The Clerk is **DIRECTED** to prepare Form 1A (Notice of Lawsuit and Request for Waiver of Service of Summons) and Form 1B (Waiver of Service of Summons) for Defendants **KNAPP, JUSTUS, WEITH, and STEINHAUER**. The Clerk shall forward those forms, USM-285 forms submitted by Plaintiff, and sufficient copies of the complaint to the United States Marshal for service.

The United States Marshal is **DIRECTED**, pursuant to Rule 4(c)(2) of the Federal Rules of Civil Procedure, to serve process on Defendants **KNAPP, JUSTUS, WEITH, and STEINHAUER** in the manner specified by Rule 4(d)(2) of the Federal Rules of Civil Procedure. Process in this case shall consist of the complaint, applicable forms 1A and 1B, and this Memorandum and Order. For

purposes of computing the passage of time under Rule 4(d)(2), the Court and all parties will compute time as of the date it is mailed by the Marshal, as noted on the USM-285 form.

With respect to former employees of St. Clair County Jail who no longer can be found at the work address provided by Plaintiff, the County shall furnish the Marshal with the Defendant's last-known address upon issuance of a court order which states that the information shall be used only for purposes of effectuating service (or for proof of service, should a dispute arise) and any documentation of the address shall be retained only by the Marshal. Address information obtained from the County pursuant to this order shall not be maintained in the court file, nor disclosed by the Marshal.

The United States Marshal shall file returned waivers of service as well as any requests for waivers of service that are returned as undelivered as soon as they are received. If a waiver of service is not returned by a defendant within **THIRTY (30) DAYS** from the date of mailing the request for waiver, the United States Marshal shall:

- Request that the Clerk prepare a summons for that defendant who has not yet returned a waiver of service; the Clerk shall then prepare such summons as requested.
- Personally serve process upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).
- Within ten days after personal service is effected, the United States Marshal shall file the return of service for the defendant, along with evidence of any attempts to secure a waiver of service of process and of the costs subsequently incurred in effecting service on said defendant. Said costs shall be enumerated on the USM-285 form and shall include the costs incurred by the Marshal's office for photocopying additional copies of the summons and complaint and for preparing new USM-285 forms, if required. Costs of service will be taxed against the personally served defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2) unless the defendant shows good cause for such failure.

Plaintiff is **ORDERED** to serve upon each defendant or, if appearance has been entered by

counsel, upon that attorney, a copy of every further pleading or other document submitted for consideration by this Court. He shall include with the original paper to be filed with the Clerk of the Court a certificate stating the date that a true and correct copy of any document was mailed to defendant or his counsel. Any paper received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Defendants are **ORDERED** to timely file an appropriate responsive pleading to the complaint, and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

Pursuant to Local Rule 72.1(a)(2), this cause is **REFERRED** to a United States Magistrate Judge for further pre-trial proceedings.

Further, this entire matter is hereby **REFERRED** to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

Plaintiff is under a continuing obligation to keep the Clerk and each opposing party informed of any change in his whereabouts. This shall be done in writing and not later than seven (7) days after a transfer or other change in address occurs.

**IT IS SO ORDERED.**

DATED: 3/30/09

s/ *G. Patrick Murphy*  
G. Patrick Murphy  
United States District Judge